

1 HB224
2 163117-1
3 By Representative McMillan
4 RFD: Ways and Means General Fund
5 First Read: 10-MAR-15

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8 SYNOPSIS: Under existing law, there is no tobacco tax
9 on consumable vapor products. These products are
10 taxed at the general sales tax rate.

11 This bill would tax consumable vapor
12 products and provide for the stamping of such.

13
14 A BILL
15 TO BE ENTITLED
16 AN ACT

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18 To amend Section 40-25-1, 40-25-2, 40-25-4,
19 40-25-4.1, 40-25-5, 40-25-6, 40-25-7, 40-25-8, 40-25-9,
20 40-25-11, 40-25-12, 40-25-13, 40-25-14, 40-25-15,
21 40-25-16.1, 40-25-18, 40-25-19, 40-25-20, 40-25-23,
22 40-25-40, 40-25-41, 40-25-42, and 40-25-46 related to the
23 taxation of tobacco to include consumable vapor products.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Section 40-25-1, 40-25-2, 40-25-4,
26 40-25-4.1, 40-25-5, 40-25-6, 40-25-7, 40-25-8, 40-25-9,
27 40-25-11, 40-25-12, 40-25-13, 40-25-14, 40-25-15,

1 40-25-16.1, 40-25-18, 40-25-19, 40-25-20, 40-25-23,
2 40-25-40, 40-25-41, 40-25-42, and 40-25-46 of the Code of
3 Alabama, 1975, are amended to read as follows:

4 "§40-25-1.

5 "For the purposes of this article, the following
6 terms shall have the respective meanings ascribed by this
7 section:

8 "(1) WHOLESALE DEALER AND JOBBER. Persons, firms, or
9 corporations who sell at wholesale only, any one or more of
10 the articles taxed herein to licensed retail dealers for the
11 purpose of resale only.

12 "(2) RETAIL DEALER. Every person, firm, or
13 corporation, other than a wholesale dealer, who shall sell or
14 offer for sale any one or more of the articles taxed herein,
15 irrespective of quantity or amount, or the number of sales;
16 and all persons operating under a retail dealer's license.

17 "(3) STAMPS. The stamp or stamps by the use of which
18 the tax levied under this article is paid and shall be
19 designated Alabama Revenue Stamps.

20 "(4) VAPOR PRODUCT. Any nonlighted, noncombustible
21 product that employs a mechanical heating element, battery, or
22 electronic circuit regardless of shape or size and that can be
23 used to produce vapor from nicotine in a solution. The term
24 includes any vapor cartridge or other container of nicotine in
25 a solution or other form that is intended to be used with or
26 in an electronic cigarette, electronic cigar, electronic
27 cigarillo, electronic pipe, or similar product or device. The

1 term does not include any product regulated by the United
2 States Food and Drug Administration under Chapter V of the
3 federal Food, Drug, and Cosmetic Act.

4 "(5) CONSUMABLE VAPOR PRODUCT. Any nicotine liquid
5 solution or other material containing nicotine that is
6 depleted as a vapor product is used.

7 "§40-25-2.

8 "(a) In addition to all other taxes of every kind
9 now imposed by law, every person, firm, corporation, club, or
10 association, within the State of Alabama, who sells or stores
11 or receives for the purpose of distribution to any person,
12 firm, corporation, club, or association within the State of
13 Alabama, cigars, cheroots, stogies, cigarettes, smoking
14 tobacco, chewing tobacco, snuff, consumable vapor product, or
15 any substitute therefor, either or all, shall pay to the State
16 of Alabama for state purposes only a license or privilege tax
17 which shall be measured by and graduated in accordance with
18 the volume of sales of such person, firm, corporation, club,
19 or association in Alabama. There is hereby levied license or
20 privilege taxes on articles containing tobacco enumerated in
21 this article in the following amounts:

22 "(1) LITTLE CIGARS. Upon cigars of all descriptions
23 made of tobacco, or any substitute therefor, and weighing not
24 more than three pounds per 1,000, \$.04 for each ten cigars, or
25 fractional part thereof.

26 "(2) CHEROOTS, STOGIES, CIGARS, ETC. Upon cigars of
27 all descriptions made of tobacco, or any substitute therefor,

1 retailing for three and one-third cents each or less, \$3 per
2 1,000.

3 "(3) CIGARS. Upon cigars of all descriptions made of
4 tobacco, or any substitute therefor, retailing for more than
5 three and one-third cents each and not more than \$.05 each, \$6
6 per 1,000.

7 "(4) CIGARS. Upon cigars of all descriptions made of
8 tobacco, or any substitute therefor, retailing for more than
9 \$.05 each and not exceeding \$.08 each, \$9 per 1,000.

10 "(5) CIGARS. Upon cigars of all descriptions made of
11 tobacco, or any substitute therefor, retailing for more than
12 \$.08 each and not exceeding \$.10 each, \$15 per 1,000.

13 "(6) CIGARS. Upon cigars of all descriptions made of
14 tobacco, or any substitute therefor, retailing for more than
15 \$.10 each and not exceeding \$.20 each, \$30 per 1,000.

16 "(7) CIGARS. Upon cigars of all descriptions made of
17 tobacco, or any substitute therefor, retailing for more than
18 \$.20 each, \$40.50 per 1,000.

19 "(8) CIGARETTES. Upon all cigarettes made of
20 tobacco, or any substitute therefor, 21.25 mills on each such
21 cigarette.

22 "(9) SMOKING TOBACCO. Upon all smoking tobacco,
23 including granulated, plug cut, crimp cut, ready rubbed, and
24 other kinds and forms of tobacco prepared in such manner as to
25 be suitable for smoking in a pipe or cigarette, upon each
26 package: Weighing not more than one and one-eighth ounces, tax
27 \$.04; over one and one-eighth ounces, not exceeding two

1 ounces, tax \$.10; over two ounces, not exceeding three ounces,
2 tax \$.16; over three ounces, not exceeding four ounces, tax
3 \$.21; \$.06 additional tax for each ounce or fractional part
4 thereof over four ounces.

5 "(10) CHEWING TOBACCO. Upon all chewing tobacco
6 prepared in such manner as to be suitable for chewing only and
7 not suitable for smoking as described and taxed in subdivision
8 (9) of this subsection: \$.015 per ounce or fractional part
9 thereof.

10 "(11) SNUFF. Upon each can or package of snuff
11 weighing not more than five-eighths ounces, one cent tax; over
12 five-eighths ounces and not exceeding one and five-eighths
13 ounces, \$.02 tax; over one and five-eighths ounces and not
14 exceeding two and one-half ounces, \$.04 tax; over two and
15 one-half ounces and not exceeding five ounces (cans, packages,
16 gullets), \$.06 tax; over three ounces and not exceeding five
17 ounces (glasses, tumblers, bottles), seven cents tax; over
18 five ounces and not exceeding six ounces, \$.08 tax; weighing
19 over six ounces, an additional \$.12 for each ounce or
20 fractional part thereof.

21 "(12) VAPOR PRODUCT. Upon each fluid millimeter of
22 consumable vapor product, \$.25 tax. All invoices for vapor
23 products issued by manufacturers must state the amount of
24 consumable product in milliliters.

25 "(b) Whenever in this article reference is made to
26 any manufactured tobacco products, manufactured or imported to
27 sell at a certain price, as the basis for computing the tax,

1 it is intended to mean the ordinary, customary, or usual price
2 paid by the consumer for such tobacco or consumable vapor
3 products taxable under this article.

4 "(c) Whenever in this article reference is made to
5 any manufactured tobacco or consumable vapor products on which
6 the tax is based on weight, the weight as shown by the
7 manufacturer or the federal internal revenue stamp shall
8 apply.

9 "(d) When the retail or selling price is referred to
10 in this article as the basis for computing the amount of
11 stamps required on any article, it is intended to mean the
12 retail or selling price of the articles before adding the
13 amount of the tax.

14 "(e) When any articles or commodities subject to tax
15 in this article are given as prizes on punch boards, shooting
16 galleries, premiums, etc., the tax shall be based on the
17 ordinary retail selling price of such articles.

18 "(f) The tax herein levied shall be paid to the
19 state through the use of stamps as herein provided. However,
20 every wholesaler, distributor, jobber, or retail dealer shall
21 add the amount of the tax levied herein to the price of the
22 tobacco or tobacco or consumable vapor products sold, it being
23 the purpose and intent of this provision that the tax levied
24 is in fact a levy on the ultimate consumer or user with the
25 wholesaler, distributor, jobber, or retail dealer acting
26 merely as an agent of the state for the collection and payment
27 of the tax to the state. Therefore, notwithstanding any

1 exemptions from taxes which any such seller may now or
2 hereafter enjoy under the Constitution or laws of this or any
3 other state, or of the United States, he shall collect the tax
4 imposed hereunder from the purchaser or consumer, and the
5 amount of the tax shall constitute a debt from the purchaser
6 or consumer to the seller until paid. It shall be unlawful for
7 any person, firm, corporation, association, or copartnership
8 to fail or refuse to add to the sales price and collect from
9 the purchaser the amount of the tax to be added to the sales
10 price and collected from the purchaser hereunder. Stamps in
11 denominations to the amount of the tax or in denominations
12 specified pursuant to subsection (g) of this section shall be
13 affixed to the box or other container from or in which tobacco
14 or consumable vapor products taxed by this section are
15 normally sold at retail. The stamps shall be affixed in such a
16 manner that their removal will require continued application
17 of water or steam; and in case of cigars, cheroots, chewing
18 tobacco and like manufactured tobacco products, where sales
19 are made from the original container, the stamps shall be
20 affixed to the box or container in such a way that the stamps
21 shall be torn in two or mutilated when such containers or
22 boxes are opened for the sale of the tobacco products. In the
23 case of cigarettes, smoking tobacco, snuff, or consumable
24 vapor product and like products sold at retail in packages,
25 the required amount of stamps to cover the tax shall be
26 affixed to each individual package or container. All taxable
27 tobaccos or consumable vapors herein enumerated, when offered

1 for sale, either at wholesale or retail, without having stamps
2 affixed in the manner set out by this article, shall be
3 subject to confiscation, in the manner provided for contraband
4 goods as set out in this article.

5 "(g) The Commissioner of Revenue shall prepare and
6 issue stamps in denominations for the amount of the tax
7 imposed by this article provided that if the commissioner
8 determines that it is not economical for the state to have a
9 stamp prepared and issued for one or more particular types of
10 packages of tobacco or consumable vapor products, then he may
11 by regulation prescribe the use of a stamp in a denomination
12 other than for the amount of the tax imposed with the
13 difference between the amount of tax actually imposed and the
14 amount of tax denominated by the stamp paid with the use of a
15 monthly report; or he may require a monthly report without use
16 of a stamp to report the amount of taxes due.

17 "(h) The increases levied by this section shall be
18 exclusive and shall be in lieu of any other or additional
19 local taxes and/or license fees, county or municipal, imposed
20 on the sale or use of cigarettes and/or other tobacco or
21 consumable vapor products. Notwithstanding the foregoing, an
22 act of the Legislature or an ordinance or resolution by a
23 taxing authority passed or enacted on or before May 18, 2004,
24 imposing a local tax and/or license fee shall remain
25 operative, but no additional local tax and/or license fee may
26 thereafter be levied on the sale of cigarettes and/or other
27 tobacco products.

1 "(i) Local taxes and/or license fees, county or
2 municipal, imposed on the sale or use of cigarettes shall be
3 paid to the local government through the use of stamps affixed
4 to the product as provided herein for the state tax. Provided,
5 however, this requirement shall not be interpreted to require
6 the Department of Revenue to prepare all stamps or to collect
7 all local taxes. Local governments may contract with another
8 entity to collect their local cigarette tax but all local
9 taxes must be collected as provided herein.

10 "§40-25-4.

11 "The license taxes imposed by this article shall be
12 paid by affixing stamps in the manner and at the time herein
13 set forth. In the case of cigars, stogies, cheroots, chewing
14 tobacco, and like products, the stamps shall be affixed to the
15 box or container in which or from which normally sold at
16 retail. In the case of cigarettes, smoking tobacco, ~~and~~ snuff
17 and consumable vapor products, the stamps shall be affixed to
18 each individual package. Time allowed for affixing stamps
19 shall be as follows: Every wholesale or retail dealer in this
20 state, except wholesalers who are issued a permit by the
21 Department of Revenue, shall immediately after receipt of any
22 unstamped cigars, stogies, cheroots, chewing tobacco,
23 cigarettes, smoking tobacco, ~~or~~ snuff, or consumable vapor
24 products unless sooner offered for sale, cause the same to
25 have the requisite denominations and amount of stamp or stamps
26 to represent the tax affixed as stated herein, and to cause
27 same to be cancelled by writing or stamping across the face of

1 each stamp the registered number of such wholesaler or
2 retailer, which shall be furnished by the Department of
3 Revenue. The stamping of the cigars, stogies, cheroots,
4 chewing tobacco, cigarettes, smoking tobacco, ~~and~~ snuff and
5 consumable vapor products shall actually begin within one hour
6 after receipt of the cigars, stogies, cheroots, chewing
7 tobacco, cigarettes, smoking tobacco, ~~and~~ snuff and consumable
8 vapor products in the premises of the wholesale or retail
9 dealer, except wholesalers who are issued a permit by the
10 Department of Revenue, and the stamping shall be continued
11 with reasonable diligence by the wholesale or retail dealer
12 until all of the unstamped cigars, stogies, cheroots, chewing
13 tobacco, cigarettes, smoking tobacco, ~~and~~ snuff and consumable
14 vapor products have been stamped and the stamps cancelled as
15 provided by law. Wholesalers who have been issued a permit by
16 the department shall affix the required stamps prior to any
17 sale. Every wholesale dealer shall at the time of shipping or
18 delivering any tobacco or consumable vapor products as
19 enumerated herein make a true duplicate invoice of the same
20 which shall show full and complete details of the sale or
21 delivery of the taxable article, and shall retain the same
22 subject to the use and inspection of the Department of
23 Revenue, or its duly authorized agents for a period of three
24 years. Wholesale and retail dealers shall also keep a record
25 of purchases of all tobacco and consumable vapor products
26 enumerated and defined in this article and hold all books,
27 records, and memoranda pertaining to the purchase and sale of

1 those tobacco and consumable vapor products open to the
2 inspection of the Department of Revenue or its duly authorized
3 agents at any and all times. Every wholesale dealer shall
4 furnish to the Department of Revenue a monthly report, between
5 the first and twentieth of each month for the preceding month,
6 of all orders for tobacco and consumable vapor products
7 purchased through the wholesale dealer from without this state
8 on a drop shipment and consigned direct to the person, firm,
9 corporation, or association of persons ordering the tobacco
10 and consumable vapor products from without this state through
11 the wholesale dealer. If, upon examination of invoices of any
12 tobacco and consumable vapor product sold by a wholesaler or
13 purchased or received, or both, by a retail dealer, he or she
14 is unable to furnish evidence to the Department of Revenue of
15 sufficient stamp purchases to cover the unstamped tobaccos or
16 consumable vapors purchased, the prima facie presumption shall
17 arise that the tobacco or consumable vapor products were sold
18 without the proper stamps affixed thereto. Any wholesaler or
19 retailer who fails or refuses to comply with any or all of the
20 above provisions shall be deemed a violator of this section
21 and, upon conviction, punished by a fine of not less than \$500
22 nor more than \$1,000, or imprisonment in the county jail for a
23 period of six months, either or both, at the discretion of the
24 court.

25 "§40-25-4.1.

26 "(a) Notwithstanding any other laws, the only
27 persons or businesses who may be licensed to buy and affix the

1 tax stamps of the Alabama Department of Revenue required by
2 law to packages of tobacco or consumable vapor products are
3 wholesalers and distributors who buy the tobacco or consumable
4 vapor products direct from the manufacturer, or an affiliate
5 of the manufacturer, except that the manufacturer of the
6 product may be allowed to affix the stamps to a tobacco or
7 consumable vapor product for the following purposes:

8 "(1) Trademark registration.

9 "(2) Promotions of the product.

10 "(3) Test-marketing the product.

11 "(b) In order for a manufacturer to affix tax stamps
12 to a tobacco or consumable vapor product for a purpose
13 described in subsection (a), the manufacturer shall give at
14 least four weeks written notice to the Commissioner of the
15 Department of Revenue of such intention along with full
16 details of the exceptional event, including, but not limited
17 to:

18 "(1) The nature of the promotion.

19 "(2) The location and length of the promotion.

20 "(3) The estimated number of tobacco or consumable
21 vapor products to be offered for sale during the promotion.

22 "(c) The Department of Revenue shall notify all
23 self-administered counties and municipalities of the
24 manufacturer's request within seven days of receiving notice
25 from the manufacturer by forwarding to each self-administered
26 county and municipality a copy of the written notice,

1 including the full details of the exceptional event as set out
2 above.

3 "(d) Any person who violates this section shall be
4 guilty of a Class A misdemeanor and, upon conviction thereof,
5 shall be punished as prescribed by law.

6 "§40-25-5.

7 "The Department of Revenue is hereby authorized and
8 directed to have prepared and distributed stamps suitable for
9 denoting the tax on all articles enumerated herein. Any
10 person, firm, corporation, or association of persons, other
11 than the Department of Revenue, who sells tobacco or
12 consumable vapor products tax stamps not affixed to tobacco or
13 consumable vapor products sold and delivered by them, whether
14 the said stamps be genuine or counterfeit, shall be guilty of
15 a felony and punishable as set out in Section 40-25-6. When
16 wholesalers or jobbers have qualified as such with the
17 Department of Revenue, as provided in Section 40-25-16, and
18 desire to purchase stamps as prescribed herein for use on
19 taxable tobaccos sold and delivered by them, the Department of
20 Revenue shall allow on such sales of tobacco tax stamps a
21 discount of seven and one-half percent on the entire amount of
22 the sale. Where wholesalers or jobbers are entitled to
23 purchase stamps at a discount as herein provided, instead of
24 the Department of Revenue selling such stamps to such jobbers
25 or wholesalers for cash, it may consign such stamps, if and
26 when such wholesaler or jobber shall give to the Department of
27 Revenue a good and sufficient bond executed by some surety

1 company authorized to do business in this state, conditioned
2 to secure the payment for the stamps so consigned when and as
3 they are used on manufactured tobacco or consumable vapor
4 products by such wholesaler or jobber. Every wholesaler or
5 jobber purchasing stamps on consignment as described herein,
6 shall be required to make a full and complete accounting and
7 remittance on or before the twentieth of each month for all
8 stamps used on taxable tobaccos or consumable vapor products
9 during the preceding month. Every wholesaler or jobber
10 refusing or failing to comply with this section shall forfeit
11 the commission or discount on stamps used which he failed or
12 refused to account or remit for in the time allowed, and in
13 addition shall be charged interest on such delinquent amount
14 for each day delinquent at the rate of eight percent per
15 annum.

16 "§40-25-6.

17 "Whoever removes or otherwise prepares any Alabama
18 Revenue Stamps with intent to use, or cause the same to be
19 used, after it has already been used, or buys, sells, offers
20 for sale or gives away any such washed, removed, or restored
21 stamps to any person for using or who used the same, or has in
22 his possession any washed, restored, removed, or altered stamp
23 which has been removed from the article to which it has been
24 previously affixed, or whoever for the purpose of indicating
25 the payment of any tax hereunder reuses any stamp which has
26 heretofore been used for the purpose of paying any tax
27 provided in this article, or whoever except the Department of

1 Revenue sells any Alabama Revenue Stamps not affixed to
2 taxable tobaccos or consumable vapor products as provided
3 herein, is guilty of a felony and, upon conviction, shall be
4 punished by imprisonment in the penitentiary for not less than
5 a year and a day, nor more than five years, and in addition
6 may be fined not less than \$1,000 nor more than \$5,000.

7 "Whoever manufactures, buys, sells, offers for sale
8 or has in his or its possession any reproduction or
9 counterfeit of the Alabama Revenue Stamps provided for in this
10 article is guilty of a felony and, upon conviction, shall be
11 punished by imprisonment in the penitentiary for not less than
12 a year and a day, nor more than 10 years, and in addition, may
13 be fined not less than \$2,000 nor more than \$10,000.

14 "§40-25-7.

15 "Any retail dealer or semijobber of tobacco or
16 consumable vapor products enumerated and defined in this
17 article purchasing, or receiving such commodities from without
18 the state, whether the same shall have been ordered or
19 purchased through a wholesaler or jobber in this state, or by
20 drop shipment or otherwise, shall within 12 hours of receipt
21 of such tobacco products, mail by certified or registered mail
22 a true duplicate invoice of all such purchases or receipts to
23 the Department of Revenue at Montgomery, Alabama, said invoice
24 carrying the name of the person or firm from whom or through
25 whom such purchases or shipments of the tobacco or consumable
26 vapor products so received, showing kinds and quantities. Any
27 retail dealer or semijobber failing or refusing to furnish

1 duplicate invoices, in both the manner and time allowed, shall
2 be guilty of a misdemeanor and upon conviction shall be
3 punished by a fine of not less than \$50 for each offense, or
4 imprisonment in the county jail for a period not exceeding 60
5 days.

6 "§40-25-8.

7 "Any cigarettes, smoking tobacco, cigars, stogies,
8 cheroots, chewing tobacco, snuff, or consumable vapor
9 products, or other products taxable under this article found
10 at any point within the State of Alabama, which the
11 cigarettes, smoking tobacco, cigars, stogies, cheroots,
12 chewing tobacco, snuff, or consumable vapor products, or other
13 products taxable under this article shall have been within the
14 State of Alabama for a period of two hours, or longer, in
15 possession of any retailer or semijobber not having affixed to
16 the package the stamps as provided in this article, are
17 declared to be contraband goods and may be seized by the
18 Department of Revenue, or its agents or by any peace officer
19 of the State of Alabama, without a warrant and the goods shall
20 be delivered to the Department of Revenue for sale at public
21 auction to the highest bidder after due advertisement. The
22 Department of Revenue before delivering any of the goods so
23 seized shall require the purchaser to affix the proper amount
24 of stamps to the individual package as above defined. The
25 proceeds of sale for any goods sold hereunder shall be turned
26 over to the Treasurer by the Department of Revenue as other
27 funds collected by the department. The cost of confiscation

1 and sale shall be paid out of the proceeds derived from the
2 sale before making remittance to the Treasurer. Any of the
3 goods, wares, or merchandise when offered for sale, either at
4 wholesale or retail without the stamps having been first
5 affixed, shall be subject to confiscation as hereinabove
6 provided. Any vehicle, not a common carrier, used for the
7 transportation for the purpose of sale of unstamped articles
8 as hereinabove enumerated shall likewise be subject to
9 confiscation and sale in the same manner as above provided for
10 unstamped goods, wares, or merchandise. Should any unstamped
11 tobaccos or consumable vapor products be found in any vehicle
12 which is engaged in the sale, distribution, or delivery of
13 taxable tobaccos, or consumable vapor products the same shall
14 be prima facie evidence that it was there for sale.

15 "§40-25-9.

16 "In all cases of seizure of any goods, wares,
17 merchandise or other property hereafter made as being subject
18 to forfeiture under provisions of this article which in the
19 opinion of the officer, or person making the seizure, are of
20 the appraised value of \$50 or more, the said officer or person
21 shall proceed as follows:

22 "(1) He shall cause a list containing a particular
23 description of the goods, wares, merchandise or other property
24 seized to be prepared in duplicate and an appraisal thereof
25 to be made by three sworn appraisers to be selected by him,
26 who shall be respectable and disinterested citizens of the
27 State of Alabama, residing within the county wherein the

1 seizure was made. Said list and appraisement shall be properly
2 attested by said officer, or person, and the said appraisers,
3 for which service each of said appraisers shall be allowed the
4 sum of \$1 per day, not exceeding two days, to be paid by the
5 Department of Revenue out of any revenue received by it from
6 the sale of the confiscated goods or the compromise which may
7 be effected.

8 "(2) If the said goods are believed by the officer
9 making the seizure to be of value of less than \$50, no
10 appraisement shall be made. The said officer, or person, shall
11 proceed to post a notice for three weeks, in writing at three
12 places in the county where the seizure was made, describing
13 the articles and stating the time and place and cause of their
14 seizure and requiring any person claiming them to appear and
15 make such claim in writing within 30 days from the date of the
16 first posting of such notice.

17 "(3) Any person claiming the said goods, wares or
18 merchandise or other property so seized as contraband within
19 the time specified in the notice may file with the Department
20 of Revenue a claim in writing, stating his interest in the
21 articles seized and may execute a bond to the Department of
22 Revenue in a penal sum equal to double the value of said goods
23 so seized, but in no case shall said bond be less than the sum
24 of \$200, with sureties to be approved by the clerk of the
25 circuit court in the county in which the goods are seized,
26 conditioned that in the case of condemnation of the articles
27 so seized, the obligors shall pay to the Department of Revenue

1 the full value of the goods so seized and all costs and
2 expenses of the proceedings to obtain such condemnation,
3 including a reasonable attorney's fee. And upon the delivery
4 of such bond to the Department of Revenue, it shall transmit
5 the same with the duplicate list or description of the goods
6 seized to the district attorney of the circuit in which such
7 seizure was made, and the said district attorney shall file a
8 complaint in the circuit court of the county where the seizure
9 was made to secure the forfeiture of said goods, wares,
10 merchandise or other property. Upon the filing of the bond
11 aforesaid the said goods shall be delivered to the claimant
12 pending the outcome of said case; provided, that said goods
13 must have the proper stamps affixed to each such article of
14 tobacco or consumable vapor product before turning same over
15 to claimant, the stamps so affixed to be paid for by claimant
16 when goods properly stamped are delivered by the Department of
17 Revenue.

18 "(4) If no claim is interposed and no bond given
19 within the time above specified, such goods, wares,
20 merchandise or other property shall be forfeited without
21 further proceedings and the same shall be sold as herein
22 provided. The proceeds of sale when received by the Department
23 of Revenue shall be turned in to the Treasury as other
24 revenues are required by law to be turned in. In seizure in
25 quantities of less value than \$50, the same may be advertised
26 with other quantities at Montgomery, Alabama, by the
27 Department of Revenue and disposed of as hereinabove provided.

1 The proceedings against goods, merchandise or other property
2 pursuant to the provisions of this article shall be considered
3 as proceedings in rem unless otherwise provided. Should the
4 Department of Revenue have to resort to the courts for
5 collection of the tax due and assessed, no advertisement shall
6 be made and the confiscated tobaccos may be held as evidence
7 pending the results of court action.

8 "§40-25-11.

9 "All common carriers, contract carriers, buses and
10 trucks transporting tobacco or consumable vapor products may
11 be required under regulations to be prescribed by the
12 Department of Revenue to transmit to the Department of Revenue
13 a periodic statement of such consignments or deliveries of
14 tobacco or consumable vapor products showing date, point of
15 origin, point of delivery and to whom delivered, and time of
16 delivery, and all common carriers, buses or trucks shall
17 permit examination by the Department of Revenue or its agents
18 of their records relating to shipment or receipt of tobacco or
19 consumable vapor products. The common carriers, buses and
20 trucks shall permit the examination and investigation of their
21 records of shipment or receipts relating to tobacco or
22 consumable vapor products, when and wherever it is deemed
23 advisable and necessary by the Department of Revenue or its
24 agents in the enforcement of this article. Inspectors, stamp
25 deputies and other duly authorized agents of the Department of
26 Revenue, on proper identification from and authorization by
27 the Department of Revenue, shall make such examination. Any

1 person, firm, corporation, partnership or association of
2 persons who refuses to transmit to the Department of Revenue
3 the statements hereinabove provided for, or who refuses to
4 permit the examination of his records by the Department of
5 Revenue or its duly authorized agent, shall be guilty of a
6 misdemeanor and upon conviction shall be punished by a fine of
7 not less than \$100 nor more than \$500 for each such offense.

8 "§40-25-12.

9 "It shall be provided by regulations of the
10 Department of Revenue the methods of breaking packages, forms
11 and kinds of containers and methods of affixing stamps that
12 shall be employed by persons, firms or corporations subject to
13 the tax imposed by this article which will make possible the
14 enforcement of payment by inspection and any person, firm or
15 corporation subject to this tax, engaging in or permitting
16 such practices as are prohibited by regulations of the
17 Department of Revenue or in any other practice which makes it
18 difficult to enforce the provisions of this article by
19 inspection, or if any person, firm, or corporation, agent or
20 officer thereof, who shall upon demand of the Department of
21 Revenue, any officer or agent of the Department of Revenue,
22 refuses to allow full inspection of the premises or any part
23 thereof, or who shall hinder or in anywise delay or prevent
24 such inspection when demand is made therefor, or in any way
25 interferes with any agent of the Department of Revenue in the
26 performance of his duties in enforcing this article,
27 confiscation of tobaccos or consumable vapor products deemed

1 by agent of the Department of Revenue to be contraband is
2 hereby declared to be one of the duties of an agent of the
3 Department of Revenue, shall be deemed to be guilty of a
4 misdemeanor and shall, upon conviction, be fined not less than
5 \$100 nor more than \$200 for each offense, or imprisonment in
6 the county jail for a period not exceeding 90 days, or both,
7 in the discretion of the court.

8 "§40-25-13.

9 "It shall be the duty of every person, firm,
10 corporation, club, or association of persons, receiving,
11 storing, selling, or handling tobacco or consumable vapor
12 products enumerated herein in any manner whatsoever to keep
13 and preserve all invoices, books, papers, cancelled checks, or
14 other memoranda touching the purchase, sale, exchange, or
15 receipt of any and all tobacco or consumable vapor products
16 enumerated herein. All such invoices, books, papers, cancelled
17 checks, or other memoranda shall be subject to audit and
18 inspection by any duly authorized representative of the
19 Department of Revenue at any and all times. Any person, firm,
20 corporation, club, or association of persons who fails or
21 refuses to keep and preserve the records as herein required,
22 or who upon request by a duly authorized agent of the
23 Department of Revenue fails or refuses to allow an audit or
24 inspection of records as hereinabove provided shall be guilty
25 of a misdemeanor and shall upon conviction be punished by a
26 fine of not less than \$50 nor more than \$200, or imprisonment

1 in the county jail for a period not to exceed 90 days for each
2 offense.

3 "§40-25-14.

4 "Each and every wholesaler or jobber qualifying as
5 such with the Department of Revenue shall be required to file
6 a report between the first and twentieth of each month,
7 covering the purchase or receipt by them of all tobacco or
8 consumable vapor products enumerated and defined herein during
9 the preceding month. Said report shall give in detail the
10 different kinds and quantities of tobacco or consumable vapor
11 products so purchased or received by them during the preceding
12 month. The Department of Revenue shall furnish any person
13 seeking to bring an action under Section 8-19-10 with
14 information permitting the identification of a distributor
15 which has affixed a stamp to a package of cigarettes in
16 accordance with this section. In addition, between the first
17 and twentieth of each month, each person licensed to affix the
18 state tax stamp to cigarettes shall file with the Department
19 of Revenue, for all cigarettes imported into the United States
20 to which such person has affixed the Alabama revenue stamp in
21 the preceding month, copies of the customs certificates with
22 respect to such cigarettes required to be submitted by 19
23 U.S.C. §1681a(c). Any wholesaler or jobber failing or refusing
24 to file the above report in the manner and time allowed shall
25 be deemed a violator of this section and upon conviction shall
26 be fined not less than \$100 nor more than \$500 for each
27 offense.

1 "§40-25-15.

2 "(a) A wholesaler or jobber, as defined in Section
3 40-25-1 and who is duly qualified as such wholesaler or jobber
4 under Section 40-25-16, may sell tobacco or consumable vapor
5 products enumerated herein without the Alabama Revenue Stamps
6 affixed thereto; provided, that: Such products are sold and
7 shipped or delivered in interstate commerce to a person
8 outside of this state, and such wholesaler or jobber shall
9 have on file, for a period of three years, subject to
10 inspection by the department, a record of such sale, and also
11 the original purchase order, and a copy of the invoice
12 therefor, and a receipt from a common carrier, contract
13 carrier or post office showing shipment for delivery in such
14 other state, or, if delivered by such dealer to the purchaser
15 at a point outside of the State of Alabama, a receipt showing
16 such delivery in addition to the record, original purchase
17 order and copy of the invoice relating to such sale.

18 "(b) Such duly qualified wholesaler or jobber may
19 sell tobacco or consumable vapor products enumerated herein
20 without the Alabama Revenue Stamps affixed thereto; provided,
21 that:

22 "(1) Such products are sold to a person who is
23 engaged in business as a dealer in such products in another
24 state,

25 "(2) Such products are purchased exclusively for
26 resale in such other state, and

1 "(3) Such products are at the time of sale properly
2 stamped by the Alabama wholesaler or jobber with revenue
3 stamps authorized and issued by such other state for use upon
4 such tobacco or consumable vapor products, and such wholesaler
5 or jobber shall have on file, for a period of three years,
6 subject to inspection by the department, a record of such
7 sale, the original purchase order and copy of invoice
8 therefor, a receipt from such purchase showing that such
9 purchase was made exclusively for resale in such other state,
10 and a record showing the purchase and use of such revenue
11 stamps of such other state.

12 "(c) Tobacco or consumable vapor products enumerated
13 herein may be sold by such duly qualified wholesalers or
14 jobbers, without revenue stamps affixed thereto, when sold to
15 the United States or to any instrumentality thereof for resale
16 to or for use or consumption by members of the Armed Services
17 of the United States; provided, that the books and records,
18 including original purchase orders and copy of invoices
19 showing such sales are kept on file for a period of three
20 years, subject to inspection by the department.

21 "(d) Tobacco or consumable vapor products enumerated
22 herein may be sold by such duly qualified wholesalers or
23 jobbers, without revenue stamps affixed thereto, when sold and
24 delivered to ships regularly engaged in foreign commerce or
25 coastwise shipping between points in this state and points
26 outside of this state for resale to or for use or consumption
27 upon such ship or in foreign commerce.

1 "(e) The department is authorized to adopt rules and
2 regulations with respect to the enforcement of the provisions
3 of this section, to prevent any evasion of the tax herein
4 imposed.

5 "(f) A failure to comply with any provision of this
6 section with respect to any sale of unstamped tobacco or
7 consumable vapor products shall subject the wholesaler or
8 jobber to the payment of the tax thereon imposed by this
9 article. Any person, including any firm, corporation or
10 association of persons, who violates any of the provisions of
11 this section shall be guilty of a misdemeanor, and upon
12 conviction shall be punished by a fine of not less than \$100
13 nor more than \$500, or by imprisonment in the county jail for
14 a period not to exceed six months, either or both, at the
15 discretion of the court.

16 "§40-25-16.1.

17 "Each wholesaler, jobber, semijobber, registered
18 retailer, importer or any other person selling, receiving, or
19 distributing tobacco or consumable vapor products in this
20 state for resale shall file a report of its activity with the
21 Department of Revenue between the first and twentieth of each
22 month. The information shall include, but not be limited to,
23 the customer's name, address, invoice number, invoice date, a
24 description of the tobacco or consumable vapor products, the
25 itemized tax, and any other information required by the
26 department.

1 "No later than December 30, 2014, the commissioner
2 shall establish a web site for listing each wholesaler,
3 jobber, semijobber, retailer, importer, or distributor of
4 tobacco or consumable vapor products that have qualified or
5 registered with the Department of Revenue. Purchases of
6 tobacco or consumable vapor products made from an entity other
7 than the above permitted or registered entities appearing on
8 the department web site listing shall be subject to
9 confiscation, as provided for in this chapter.

10 "§40-25-18.

11 "(a) Persons failing to properly affix the required
12 stamps to any cigars, cheroots, stogies, cigarettes, smoking
13 tobacco, chewing tobacco, ~~and~~ snuff, and consumable vapor
14 products shall be required to pay, as part of the tax imposed
15 hereunder, a penalty of not less than twenty-five dollars
16 (\$25) nor more than five hundred dollars (\$500). Each article
17 or commodity not having proper stamps affixed thereto as
18 herein required shall be deemed a separate offense. Any
19 cigars, cheroots, stogies, cigarettes, smoking tobacco,
20 chewing tobacco, ~~and~~ snuff, and consumable vapor products in
21 the place of business of any person required by this article
22 to stamp the same shall be prima facie evidence that they are
23 intended for sale. The Department of Revenue, upon good cause
24 shown, may waive or remit any penalty or any part thereof
25 provided for in this section. Any person, firm, corporation,
26 club, or association of persons who has been found guilty of
27 violating this article and who, after being punished by fine,

1 penalty, assessment, or imprisonment, is found guilty of a
2 second or subsequent violation of this article shall have
3 their license, as provided in Sections 40-12-72 and 40-12-73,
4 revoked by the department, and no further license or permit
5 shall be issued or granted to that person, firm, corporation,
6 club, or association of persons for a period of one year from
7 the date their license or permit has been revoked. Notice of
8 the revocation shall be mailed to the probate judge and
9 license inspector of the county in which the revocation was
10 made.

11 "(b) In addition to the penalty levied by the
12 department pursuant to subsection (a), the county license
13 inspector, license commissioner, revenue commissioner, tax
14 assessor, or tax collector of the county in which the untaxed
15 tobacco or consumable vapor product is located may assess a
16 penalty against any person failing to affix the required
17 stamps to any cigars, cheroots, stogies, cigarettes, smoking
18 tobacco, ~~and~~ snuff and consumable vapor product. The amount of
19 the additional penalty shall be not less than one hundred
20 dollars (\$100) nor more than five hundred dollars (\$500).

21 "(c) The department and local taxing official may
22 assess the tax levied by this chapter pursuant to the
23 assessment procedures set out in Chapter 2A of this title.

24 "§40-25-19.

25 "Each and every person, firm, corporation, club, or
26 association transporting and distributing in any manner
27 whatsoever any tobacco or consumable vapor products as

1 enumerated and defined herein within the State of Alabama who
2 has not a privilege license as prescribed in Sections 40-12-72
3 and 40-12-73 shall before transporting or distributing any of
4 such tobacco or consumable vapor products as enumerated and
5 defined herein secure a permit from the Department of Revenue.
6 The Department of Revenue shall, before issuing such permit,
7 charge and collect annually a fee of \$50 from each such
8 person, firm, corporation, club, or association for
9 transporting or distributing in any manner whatsoever any
10 tobacco or consumable vapor products as enumerated and defined
11 herein. Each person, firm, corporation, club, or association
12 securing a permit as hereinbefore provided for, shall be
13 allowed for each such permit so secured one vehicle for the
14 purpose of transporting or distributing such tobacco or
15 consumable vapor products as enumerated herein, and said
16 permit and fee is required of such person, firm, corporation,
17 club, or association for each vehicle which is so operated.
18 Said permit shall be transferable as to person or vehicle
19 under rules and regulations promulgated by the Department of
20 Revenue. The permit provided herein shall be conspicuously
21 displayed on each vehicle so used or operated. Failure to
22 properly display the permit as hereinbefore required shall be
23 deemed a violation of this section. Any person, firm,
24 corporation, club, or association having been issued a permit
25 who engages in any practices which are deemed by the
26 Department of Revenue to obstruct or prevent in any way the
27 collection of the tax provided herein, may have their permit

1 revoked by the Department of Revenue and no further permit
2 shall be issued for six months and not then unless the
3 Department of Revenue deems it advisable and expedient to do
4 so. Duplicate permit cards will be issued to replace permits
5 lost or damaged upon application and the payment of a fee of
6 \$1. Any person, firm, corporation, club, or association found
7 transporting or distributing any tobacco or consumable vapor
8 products defined herein, without first securing a permit as
9 provided above, shall be deemed a violator of this section and
10 upon conviction shall be punishable by a fine of not more than
11 \$1,000 for each such offense.

12 "§40-25-20.

13 "Any person, firm, corporation, club, or association
14 of persons, who shall reuse or refill with any tobacco
15 products enumerated herein any box, package or container from
16 which tobacco or consumable vapor products theretofore
17 tax-paid have been removed, shall be guilty of a misdemeanor
18 and upon conviction shall be fined not less than \$100 nor more
19 than \$500 or imprisoned not to exceed six months, either or
20 both, at the discretion of the court.

21 "§40-25-23.

22 "All revenues collected under the provisions of this
23 article, except as otherwise provided, shall be paid to the
24 Department of Revenue by check or draft made payable to the
25 Treasurer of Alabama, and shall be distributed in the
26 following manner:

1 "(1) All of the revenue derived from the tax levied
2 upon cigarettes by Sections 40-25-2 and 40-25-41 shall be
3 deposited in the State Treasury and 38.82 percent of such
4 revenue shall be divided as follows:

5 "a. Six and six one-hundredths percent to the credit
6 of the State Public Welfare Trust Fund, which is hereby
7 appropriated for general welfare purposes. In this section,
8 "general welfare purposes" means:

9 "1. The administration of public assistance as set
10 out in Sections 38-2-5 and 38-4-1;

11 "2. Services, including supplementation and
12 supplementary services under the federal Social Security Act,
13 to or on behalf of persons to whom such public assistance may
14 be given under Section 38-4-1;

15 "3. Services to and on behalf of dependent,
16 neglected, or delinquent children; and

17 "4. Investigative and referral services to and on
18 behalf of needy persons.

19 "b. Nine and nine one-hundredths percent shall be
20 set apart and used for the following purposes only and in the
21 following order:

22 "1. So much thereof as may be necessary for such
23 purpose is hereby appropriated and shall be used by the State
24 Treasurer to pay at their respective maturities the principal
25 and interest that will mature during the then current fiscal
26 year on all bonds at the time outstanding that may have been

1 issued by the State Industrial Development Authority under the
2 provisions of the following acts:

3 "(i) Acts 1967, No. 231;

4 "(ii) Acts 1971, No. 1420;

5 "(iii) Acts 1973, No. 1039;

6 "(iv) Acts 1975, No. 1217;

7 "(v) Acts 1978, 2nd Ex. Sess., No. 99;

8 "(vi) Acts 1981, No. 81-843;

9 "(vii) Acts 1983, No. 83-925; and

10 "(viii) Acts 1987, No. 87-550.

11 "2. The balance thereafter remaining during each
12 fiscal year shall be paid into a special fund in the State
13 Treasury to be designated the "General and Mental Health
14 Fund," and is hereby appropriated and shall be distributed as
15 follows:

16 "(i) Thirty-six percent of the said balance shall be
17 expended by the State Health Officer, with the approval of the
18 state Board of Health, for salaries, other expenses and
19 equipment purchases, incident to general health work;

20 "(ii) Fifty-eight percent of the said balance shall
21 be paid to the Department of Mental Health created in Chapter
22 50 of Subtitle 2 of Title 22, to be expended by the said
23 department for such purposes as it may designate for the
24 provision of mental health services; and

25 "(iii) Six percent of said balance shall be paid to
26 the Alabama Mental Health Board to be expended by said board

1 for such purposes as it may designate for the provision of
2 services to people with an intellectual disability.

3 "c. Twelve and twelve one-hundredths percent shall
4 be set apart and used for the following purposes only and in
5 the following order:

6 "1. So much thereof as may be necessary for such
7 purpose is hereby appropriated to the purpose of acquiring and
8 constructing mental health facilities in the state, and to
9 that end shall be used by the State Treasurer to pay, at their
10 respective maturities, the principal and interest that will
11 mature during the then current fiscal year on whichever of the
12 following may be issued:

13 "(i) Any bonds of the state that may be issued for
14 acquisition and construction of mental health facilities under
15 Amendment 266 of the Constitution of Alabama; or

16 "(ii) Any bonds that may be issued by the Alabama
17 Mental Health Finance Authority under the provisions of Acts
18 1988, Act No. 88-475.

19 "2. The balance thereafter remaining during each
20 fiscal year shall be paid into a special fund in the State
21 Treasury, designated the "General and Mental Health Fund," and
22 is hereby appropriated and shall be distributed as follows:

23 "(i) Thirty percent of said balance shall be
24 expended by the State Health Officer, with the approval of the
25 state Board of Health, for salaries, other expenses, and
26 equipment purchases incident to general health work; and

1 "(ii) Seventy percent of the said balance shall be
2 paid to the Department of Mental Health created in Chapter 50
3 of Subtitle 2 of Title 22, and shall be used by the said
4 department for mental health purposes in the state.

5 "d. Six and six one-hundredths percent shall be set
6 apart and used for the following purposes only and in the
7 following order:

8 "1. So much thereof as may be necessary for such
9 purposes is hereby appropriated and shall be used by the State
10 Treasurer to pay, at their respective maturities, the
11 principal and interest that will mature during the then
12 current fiscal year on all bonds that may be issued by the
13 State Parks Development Authority under the provisions of Acts
14 1967, No. 272, which provided for the creation of said
15 authority and also provided for the submission of a
16 constitutional amendment to authorize the issuance of general
17 obligation bonds by said authority.

18 "2. The balance thereafter remaining during each
19 fiscal year shall be deposited into a special fund in the
20 State Treasury to be designated the "State Parks Fund" and is
21 hereby appropriated and shall be distributed as follows: Said
22 fund may be expended by the State Director of Conservation at
23 his discretion and with the approval of the Governor for
24 salaries, other expenses, land acquisitions, equipment
25 purchases, capital additions or improvements, or other lawful
26 expenses relating to the state division of parks, monuments,
27 and historical sites.

1 "e. Sixty-six and sixty-seven one-hundredths percent
2 to the credit of the General Fund.

3 "(2) The remaining 61.18 percent of the revenue
4 derived from the tax levied on cigarettes by Sections 40-25-2
5 and 40-25-41 shall be deposited into the State Treasury and
6 allocated as follows:

7 "a. Up to \$2 million received annually shall be
8 allocated to the various counties of the state levying a
9 cigarette tax to offset the administrative expenses of
10 obtaining local stamps to affix to cigarettes sold in their
11 jurisdiction for the purpose of collecting their local
12 cigarette tax and to provide a discount to wholesalers and
13 jobbers for affixing such stamps. These funds shall be
14 distributed by the Comptroller pro rata based on the actual
15 administrative expenses reported to the Comptroller by the
16 counties at the conclusion of each quarter of the fiscal year.
17 The Comptroller shall insure that such funds are distributed
18 as soon as possible following the receipt of such reports.
19 Failure of any county to submit such a report shall not
20 prohibit the Comptroller from distributing funds to the
21 remaining counties.

22 "b. Remaining revenues to the General Fund to be
23 used for Medicaid services.

24 "(3) All of the revenue derived from the tax levied
25 by Sections 40-25-2 and 40-25-41 upon tobacco or consumable
26 vapor products other than cigarettes shall be deposited in the
27 State Treasury to the credit of the State General Fund.

1 "§40-25-40.

2 "For the purpose of this article, the following
3 terms shall have the respective meanings ascribed to them in
4 this section:

5 "(1) PERSON. Any individual, firm, company,
6 partnership, association, corporation, receiver or trustee, or
7 any other group or combination acting as a unit, and the
8 plural as well as the singular number.

9 "(2) DEPARTMENT. The Department of Revenue of the
10 State of Alabama.

11 "(3) COMMISSIONER. The Commissioner of Revenue of
12 the State of Alabama.

13 "(4) STORAGE. Any keeping or retention in this state
14 for any purpose except sale in the regular course of business
15 or subsequent use solely outside this state of the commodities
16 subject to the provisions of this article.

17 "(5) USE. The exercise of any right or power over
18 the commodities subject to the provisions of this article,
19 incident to the ownership of those commodities or by any
20 transaction where possession is given; except, that it shall
21 not include the sale of those commodities in the regular
22 course of business.

23 "(6) IN THIS STATE. Within the exterior limits of
24 the State of Alabama, and includes all territory within such
25 limits owned by or ceded to the United States of America.

26 "(7) TOBACCO PRODUCT. Cigars, cheroots, stogies,
27 cigarettes, smoking tobacco, chewing tobacco, snuff,

1 consumable vapor product as defined in 40-25-1, or tobacco in
2 any form or condition or any substitute therefor.

3 "(8) RETAIL SALE or SALE AT RETAIL. All sales except
4 sales by wholesalers to licensed retail dealers or other
5 wholesalers for resale.

6 "(9) REGISTERED TAXPAYER. Any person who purchases
7 tobacco products subject to the tax imposed by this article
8 and who has been registered by the department as a responsible
9 taxpayer.

10 "§40-25-41.

11 "An excise tax is hereby imposed on the storage, use
12 or other consumption in this state of tobacco or consumable
13 vapor products purchased at retail in an amount equal to that
14 set out in Section 40-25-2 or to any additional amount or
15 amounts of tobacco sales tax as may be otherwise levied or
16 provided by law.

17 "Every person storing, using, or otherwise consuming
18 in this state tobacco or consumable vapor products purchased
19 at retail shall be liable for the tax imposed by this article,
20 and the liability shall not be extinguished until the tax has
21 been paid to this state; provided, that if said tobacco or
22 consumable vapor products have attached thereto the stamps
23 provided in said Section 40-25-2 as aforesaid, or as otherwise
24 provided by law, or if said tax imposed by said Section
25 40-25-2 as aforesaid, or to any additional amount or amounts
26 of tobacco sales tax as may be otherwise levied or provided by
27 law has been paid by the seller of such tobacco products, then

1 the tax imposed by this article shall not be due. Every person
2 who shall purchase tobacco or consumable vapor products
3 subject to the tax imposed by this article shall register with
4 the Department of Revenue as a responsible taxpayer subject to
5 the obligation of maintaining records and making returns, and
6 shall furnish his name and address and the address at which
7 tobacco or consumable vapor products are received if that
8 address is different from his permanent address and shall
9 furnish such other information as the commissioner shall deem
10 appropriate for the administration of this article.

11 "All tobacco and consumable vapor products subject
12 to the tax imposed by this article and with respect to which
13 the tax has not been paid are declared to be contraband and
14 may be seized without warrant by the commissioner or his
15 agents or employees or by any peace officer of this state, and
16 confiscated as provided in Section 40-25-8, and in such case
17 the tax shall become immediately due; except, that tobacco or
18 consumable vapor products in the possession of a registered
19 taxpayer, as defined in this article, shall not be deemed
20 contraband and subject to seizure and confiscation unless the
21 time for making the report required by Section 40-25-42 has
22 expired.

23 "Every person subject to the tax imposed by this
24 article who fails to register with the Department of Revenue
25 as a responsible taxpayer; or every person owning or
26 possessing tobacco or consumable vapor products declared to be
27 contraband under this section shall be deemed a violator of

1 this article and may be required to pay a penalty of not less
2 than \$25 nor more than \$500.

3 "§40-25-42.

4 "Every person owning or having in his possession or
5 custody tobacco or consumable vapor products, the storage, use
6 or other consumption of which is subject to the tax imposed by
7 this article, shall on or before the tenth day of the month
8 following file with the department a return for the preceding
9 month in such form as may be prescribed by the department
10 showing the tobacco or consumable vapor products purchased by
11 such person, and such other information as the department may
12 deem necessary for the proper administration of this article.
13 The return shall be accompanied by a remittance of the amount
14 of tax herein imposed.

15 "§40-25-46.

16 "It shall be the duty of every person storing, using
17 or otherwise consuming in this state tobacco or consumable
18 vapor products subject to the provisions of this article to
19 keep and preserve all invoices, books, papers, cancelled
20 checks, or other memoranda touching the purchase, sale,
21 exchange, receipt, ownership, storage, use, or other
22 consumption of such tobacco or consumable vapor products. All
23 such invoices, books, papers, cancelled checks, or other
24 memoranda shall be subject to audit and inspection by any duly
25 authorized representative of the Department of Revenue at any
26 and all reasonable times. Any person who fails or refuses to
27 keep and preserve the records as herein required or who upon

1 request by a duly authorized agent of the Department of
2 Revenue fails or refuses to allow an audit or inspection of
3 the records as herein provided shall be guilty of a
4 misdemeanor and upon conviction therefor be punished as in
5 case of conviction for a misdemeanor."

6 Section 2. This act shall become effective on
7 October 1, 2015 following its passage and approval by the
8 Governor, or its otherwise becoming law.